

**Employment Service (ES) Manual**  
**Policy Issuance No. 07-35**  
**Webinar**  
**11-6-08**  
**Slide Notes**

**Slide 1:** Welcome to today's webinar on the Employment Service Manual, Policy Issuance number 07-35.

The purpose of today's webinar is show you where to find the PI online, and to give a very general overview of the information included in the policy.

**Slide 2:** The Wagner-Peyser Act established the United States Employment Service (USES) to provide employment service to the universal population. The ES manual provides guidance for local and state level ES administration as mandated by the Wagner Peyser act, the MES Act, the WIA, and other state and federal statues and regulations.

**Slide 3:** no notes

**Slide 4:** Please update your bookmarks so you don't accidentally go to an out of date version of the manual. The current manual is actually included in the PI, from pages 4 to 135.

**Slide 5:** no notes

**Slide 6:** no notes

**Slide 7:** These are the primary ES Manual sections currently. (read list) We will go over these in general, pointing out the specific rules and guidelines in each area. Whenever information is added or updated in the ES Manual, a change to PI 07-35 will be issued.

**Slide 8:** Section 001 describes the state labor exchange system and how these services are to be provided.

Assistance for job seekers to find employment

Assistance for employers to find workers

Facilitating the match between job seekers and employers

Participating in inter state clearance

Meeting the work test requirements of the state unemployment compensation system

Other requirements include:

Accept a job application from any job seeker

Obtain only necessary information to determine qualifications and evaluate, plan and improve programs.

Give priority to veterans

Extend no preference in services to anyone except in accordance with legal requirements

Provide no service required by strike or lockout

Provide no service involving picketing

Provide no service to employers known to discriminate  
Ensure delivery of Employment Services to Migrant and Seasonal Farm Workers equal to services provided to others.

**Slide 9:** Some of the laws include: (Don't read the whole list)

\*Wagner-Peyser Act of 1933, as amended

\*MES Act of 1936, as amended. The text of this legislation may be found at the following url: <http://www.michigan.gov/ua/1,1607,7-118-1322---,00.html>

\*The Federal Fair Labor Standards Act of 1938

\*The Equal Pay Act of 1963, which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination

The Older Americans Act of 1965, as amended (47 USC 3001 and 3056 et seq.)

The Pregnancy Discrimination Act, Title VII of the Civil Rights Act (CRA) of 1964, to prohibit sex discrimination on the basis of pregnancy.

The Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older

The CRA of 1968, Title VIII (42 USC 300 et seq.), PL 90-284

The Vocational Rehabilitation Act of 1973, as amended by the WIA of 1998

Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government

The Age Discrimination Act of 1975, as amended (29 USC 621), PL 9 & 135

The Elliott-Larsen CRA of 1976, Public Act 453 of 1976 (formerly the Michigan Fair Employment Practices Act of 1966)

The Civil Service Reform Act of 1978 (CSRA) contains a number of prohibitions, known as prohibited personnel practices, which are designed to promote overall fairness in federal personnel actions.

The Immigration and Naturalization Act of 1986 (8 USC 1324a), PL 99-603

Title I and Title V of the Americans with Disabilities Act (ADA) of 1990, which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments

The CRA of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.

The Civil Rights Restoration Act of 1991 (20 USC 1686-1688), (29 USC 706 and 709), (42 USC 2000(d)-4 [9] and 6107), PL 100-259

The Family and Medical Leave Act of 1993 (29 USC 2601), PL 103-3

Title 20 CFR 98, which requires an annual Certification Regarding Lobbying

U.S. Department of Labor (USDOL), Employment and Training Administration (ETA) regulations and the Code of Federal Regulations (CFR) Title 20, parts 651-654 and 658

Title 20 CFR, part 653, with respect to equitable services to migrant and seasonal farm workers and other requirements.

Title 29 CFR, Chapter 14, part 1620, known as the Equal Pay Act.

The nondiscrimination and equal opportunity requirements, including complaint processing, compliance reviews, etc., as provided by Title 29 CFR, part 31 and part 32

Title 29 CFR, part 98, which requires an annual Certification Regarding Debarment, Suspension, and Other Responsibility Matters. See Title 13 CFR, part 145.

Title 29 CFR, part 98, which requires an Annual Drug Free Work-Place Certification

The requirements for veterans' services cited in Title 38 CFR, part 41 and Title 38 CFR, part 43

The regulations cited in Title 41 of the CFRs with respect to costs incurred under the State Plan and approved by the Regional Administrator, except as may be waived

The Uniformed Services Employment and Reemployment Rights Act (USERRA), prohibits discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services

Section 030 identifies Federal Law relative to Michigan Talent Bank Job Orders and Resumes

Section 040 contains a comprehensive chart of required Labor Exchange Activities and Applicable Laws.

**Slide 10:** It is important to maintain confidentiality in all areas of the Labor Exchange system. No information should be shared unless it follows the policies as listed in the manual.

Section 050 – Information Sharing. gives policy on information sharing between partners, MRS, Enforcement Agencies, Employers and others.

Section 055 gives policy on the Freedom of Information Act and how requests should be handled by BWT, MWA and ES Providers.

A webinar on the ES Complaint system was broadcast on October 3. The information can be found at [www.michigan.gov/bwt](http://www.michigan.gov/bwt) under the heading Other Webinar Documents.

An additional webinar for MWA *Complaint Coordinators* will be held in the near future

**Slide 11:** Michigan has developed an electronic, self-service labor exchange. The MTB is part of the Michigan Works! system. Michigan Works! is the official labor exchange system operated by the BWT and sponsored by the USDOL. MTB lists job seeker resumes and various job openings on the Internet. This system allows employers to recruit and select qualified job applicants.

Instructions on the use of the MTB would include how to register online, how to post job openings directly on MTB, and how to search for job seeker resumes.

All job orders received from employers must be entered in MTB.

No suppressed job orders are allowed on MTB.

Unscreened searches may be provided to registered employers who don't want their information posted online.

Any employer who requests the MWA to run a search must be a registered MTB user.

The search would include resumes that match stated job specifications. MWAs have the option to screen or contact job seekers on behalf of employers if they wish to do so, provided that the screening procedures used do not violate federal employment laws.

**Slide 12:** A posted webinar on the Michigan Talent Bank clearly identified the policy on job orders. To see the presentation and read the notes, please go to [www.michigan.gov/bwt](http://www.michigan.gov/bwt) . Look under the Michigan Talent Bank category.

**Slide 13:** Job orders that pre-designate which applicants may be referred cannot be serviced. For example, if the names of certain individuals, such as all former employees, are specified, the job order is not a bona fide job order. Only occupational specifications can be used as a basis for selection and referral.

Job orders from a third party, who is not the actual employer or in the employ of the employer, are non-bona fide job orders. These orders may not be serviced unless the third party presents a letter from the employer specifically delegating hiring authority to the third party.

Job orders for a hidden third party employer will not be serviced. Job orders must indicate and the job seeker must be informed of the employer of record, that is: on whose payroll the worker will be, the name of the company for whom the work will be performed, and the location where the work will take place. The identity of the actual employer must be known. This policy derives from the definition of an employer in Title 20 CFR, part 651.10 and from the role of the ES in administering the complaint process, enforcing nondiscrimination in service, and barring referrals in labor disputes.

Job Orders furnishing any organization, private or nonprofit, with the names of applicants for possible referral to another business firm when no specific job openings exist are contrary to the policy of the BWT.

**Slide 14:** This section applies to only non-agricultural out-of-state jobs. Section 613 discusses the policies and procedures on the use of the MTB by out-of-state employers for the recruitment of agricultural workers.

Other sections of the Services to Employers describe how to service Affirmative Action Job Orders, Foreign Labor Certification, (including H-1B, H-2A and H-2B and permanent labor certification) and the Prevailing Wage Rate.

**Slide 15:** Section 112 describes the Fidelity Bonding Program.

The URL for this program is [www.michigan.gov/fidelitybonding](http://www.michigan.gov/fidelitybonding)

A webinar on this top was given recently and the information can be found on the BWT training site.

**Slide 16:** MWAs are to monitor job listings of employers in their respective areas and will immediately notify the MTB Help Desk if any job listing meets any of the following criteria. MTB staff may remove any job listings that:

- Seek to fill a position involved in a labor dispute, including filling a vacancy caused by a worker on strike, or for the purpose of picketing an employer involved in a labor dispute,
- Would require a job seeker to pay a fee to be referred to an employer,
- Would require a significant monetary investment by the job seeker,
- Are posted when there is no immediate vacancy,
- Require the job seeker to perform an illegal activity,
- Contain explicit sexual or vulgar language,

Indicate that the job seeker will not be paid according to Michigan's minimum wage laws,

Indicate the job seeker will not receive overtime pay for working over 40 hours in any week, unless the position is considered exempt, or

Contain discriminatory specifications that would exclude applicants based on race, color, religion, national origin, sex, or age; or, that ask job seekers to report to an address that is not a normal place of business, such as a hotel or motel room.

**Slide 17:** Any job seeker may enter a resume into the MTB.

UI claimants must have a resume in the MTB in order to receive compensation, unless this requirement has been waived by the DLEG-UIA.

Under Wagner-Peyser regulations, every customer who visits a One-Stop Service Center is also eligible for mediated services. The MTB process automatically creates a mediated services registration for all users who enter their resume into the system through any MWA computer.

The MWA staff must provide assistance if a job seeker is unable to enter a resume on his or her own.

Claimants must data enter a resume of their job experience and education into the MTB Web site.

Claimants must go in person to an MWA office. MWA staff verifies that the claimant has a resume and is registered for work.

After verification, the MWA staff sends an electronic file transmitting the claimant's validated registration data to the BWT. This data is then downloaded into the UI mainframe, where the MWA registration date is posted to the claimant's UI records.

It is the entry of a registration date that allows benefit payment.

The MTB has a Lookup utility that allows MWA staff to retrieve lost or forgotten User IDs and PINs for job seekers.

User IDs and PINs are strictly confidential and may only be revealed to the job seeker. 301-D lists the steps required

**Slide 18:** The UIA work test helps to assure that UI claimants are able, available, and seeking employment and did not refuse any suitable employment. These are the basic requirements for receiving UI benefits. It is the responsibility of the ES provider to report to the UIA any incident of claimant non-compliance. Claimant non-compliance includes not being able to work, not being available to work, not seeking work, or refusing offers of suitable work.

If an MWA provides a job referral for a claimant and the claimant fails to respond to the referral or to report for a job interview, or if it otherwise comes to the attention of the MWA that a UI claimant is in violation of work test requirements, the MWA must report the non-compliance to the UIA using form DLEG-BWP 303, the Claimant Advice Slip. It is solely the responsibility of the UIA to advise UI claimants regarding Unemployment Insurance benefits eligibility. MWAs should not attempt to explain the UIA work test requirements to claimants. Claimants should be advised to address all inquiries about the work test and UIA eligibility requirements to an UIA representative.

**Slide 19:** Individuals who visit a MWA service center seeking assistance with a claim for unemployment benefits must be provided certain accommodations. These accommodations include the use of office equipment, such as telephones, fax machines, computers, and photocopying equipment, and the provision of basic information. The MWA director has sole discretion to determine when the use of office equipment by a UI claimant is needed for the UIA program. The MWA director may also suspend an individual's use of office equipment if it is determined that the equipment is being misused. It is appropriate, however, to allow a UI claimant access and use of service center equipment to make contact with the UIA.

**Slide 20:** MWA's when approached by UI claimants with questions regarding unemployment compensation, may only provide a referral to the printed materials or to one of the following:

Read list

**Slide 21:** The UIA's Problem Resolution Offices (PROs) resolve customer problems and provide access to automated resources. They are open for walk in service from 8 a.m. to 3 p.m. (Eastern Time) weekdays, except for state holidays.

**Slide 22:** Section 205 includes a variety of tips and points to remember when interacting with customers who have disabilities such as:

Blind or visually impaired  
Deaf or hard of hearing  
Have mobility impairments  
Speech impairments  
Cognitive disabilities

**Slide 23:** Section 28(3) of the Michigan Employment Security Act (MES act) allows the DLEG-UIA to waive the seeking work and availability requirements for UI claimants who are unable to find a job for which they are suited by training or experience within the locality in which they are claiming benefits. MWA staff are responsible for advising the UIA as to whether or not a waiver should be granted.

**Slide 24:** Sections 300 – 399 includes information on counseling and assessment. Sections 302 through 309, which contained information about assessment tests previously endorsed for use by the BWT has been retracted.

The remaining "300" sections includes information on counseling, career guidance, adverse impact, and occupational testing of people with disabilities. Even though there are no endorsed tests, this information still outlines policy.

**Slide 25:** no notes

**Slide 26:** no notes

**Slide 27:** no notes

**Slide 28:** Sections 500-599 contain information about regulations affecting the recruitment, selection, and referral of agricultural workers. The topics covered include: Domestic and migrant agricultural workers, and migrants and seasonal farm workers (MSFWs)

The conditions and regulations affecting the importation of foreign workers

The development of relationships and working agreements with employers, workers, local, state and federal agencies

The requirement for collection, gathering, and distributing agricultural labor market data

The extensive 1980 federal MSFW regulations have also been interpreted to assure statewide consistency of application. The services and protections awarded are tightly controlled and closely monitored. All MSFWs applying for ES must have a resume placed in the MTB.

There are a lot of policies in place regarding services to Migrant and Seasonal Farmworkers. Section 500 – 523 identifies these policies and procedures. Some of the sections are designated for BWT Agricultural Employment Service staff only, but many other sections apply to anyone who may be providing services to a migrant or seasonal farmworker.

**Slide 29:** no notes

**Slide 30:** For questions about the ES Manual PI 07-35, contact Brian or Sara.

**Slide 31:** no notes.